IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 487 of 2004

Date of decision 27.03.2006

Garja Ram and others **…Appellants.**

Versus

Kirpa Ram **…Respondent.**

Coram

The Hon'ble Mr. Justice : **Surjit Singh, Judge.**

Whether approved for reporting?[1] No

For the appellants: Mr. G.D. Verma, Sr. Advocate, with Mr. B.C. Verma, Advocate.

For respondent : Nemo.

Surjit Singh, Judge (Oral)

Heard and gone through the record. The only question of law, which, according to the learned counsel for the appellants, arises in the present appeal, is that the suit itself was incompetent and un-maintainable, when admittedly the State of Himachal Pradesh is the owner of the property

---

Whether the reporters of the local papers may be allowed to see the judgment? Yes

and it had not been made a party to the suit and the plaintiff had no vested right in the property.

2. Plaintiff filed a suit for injunction simplicitor, claiming that he was in possession and that the defendants, without any right, title or interest, had been trying to interfere in his possession. Admittedly, the plaintiff was not the owner of the suit property nor did he claim himself to be so. He alleged that he was in possession and was entitled to protect his possession against the defendants, who were trying to interfere in his possession. The trial Court accepted the plaintiff's plea and granted him the decree prayed for. Appeal filed by the defendants against the said decree has been dismissed by the learned District Judge. Now the defendants have come to this Court.

3. It is by-now well settled that even a trespasser has a right to protect his possession against the entire world, except the true owner. In view of this settled position of law, the so-called question of law does not arise.

4. The learned counsel for the appellants then tried to get the appeal admitted on the plea that the evidence has not been appreciated by the Courts below correctly. Since there is concurrent finding of fact by both the Courts below, based on the evidence adduced during the course of trial that it is the plaintiff who is in possession, the argument cannot be accepted.

5. For the foregoing reasons, the appeal is dismissed.

March 27, 2006 (BC) **(Surjit Singh)**
Judge